

Bayport Record of Decision (ROD) Questions and Answers

1. What is the decision on the permit? Pending water quality certification and Coastal Zone Consistency by the Texas Commission on Environmental Quality (TCEQ), the Corps' decision is to issue Department of Army Permit 21520 for the construction of the Bayport Ship Channel Container/Cruise Terminal.

2. Can I get a copy of the Record of Decision? While the ROD is at TCEQ it is considered a DRAFT document and cannot be released. Once the ROD is signed and finalized by the District Commander it will be posted on our website and will be available to the public.

3. How long does the TCEQ have to issue water quality certification? The TCEQ has 10 working days to issue water quality certification, issue with conditions, or deny water quality certification, unless an extension is requested and granted. If no response is received from the TCEQ, then we consider water quality certification waived and we can finalize the ROD and issue the permit.

4. What are the wetland impacts associated with the project? Approximately 20 acres of jurisdictional wetlands and 126 acres of non-jurisdictional wetlands will be impacted due to the construction of the project.

5. What does the wetlands mitigation involve? The Port of Houston Authority will provide approximately 1,130 acres of compensatory mitigation. The mitigation includes wetlands creation, wetlands enhancement, prairie enhancement, and uplands preservation at the 174-acre Memorial Tract adjacent to Armand Bayou, preservation of the 456-acre Banana Bend Tract on the San Jacinto River, and preservation of 500 acres of coastal prairie within the Cypress Creek watershed, San Jacinto River Basin, or within the San Jacinto-Brazos Coastal Basin.

6. What are the project's open bay and mudflat impacts? Approximately 127 acres of open bay water will be dredged for berthing areas, an access area from the ship channel to the berths, and a new turning basin, and approximately 2 acres of intertidal mudflats will also be impacted during construction. In addition, up to 200 acres of open water in Galveston Bay is planned for conversion into an intertidal marsh as a beneficial use of dredged material site.

7. Will there be impacts to the regional air shed as a result of the project? Yes, there is a potential for significantly adverse short term air quality impact from dust during construction, but those impacts can be reduced to less than significant. The project emissions are accounted for in the State Implementation Plan (SIP) and all Clean Air Act requirements will be met.

8. How can short-term air quality impact from dust be reduced during construction activities? The potential for dust-related emissions can be reduced in a variety of ways, including use of water, use of wind fences, staging of construction activities, and attention to the path followed by temporary construction roads.

9. How about truck-related emissions? Truck emissions will increase, however, mobile diesel emissions should be reduced over time by the new emissions standards that will go into effect over the next few years.

10. Why isn't Spilmans Island a practicable alternative? Spilmans Island is an active dredged material placement area. According to several studies reviewed by Corps engineering staff, the site consists of highly unconsolidated material that the Corps estimates would require an additional \$150 million to \$300 million to stabilize. In addition, this extensive stabilization effort would require up to ten years to complete, which would extend both the cost and the logistics beyond what is considered practicable. Since Spilmans Island is an active placement area, approximately 33 million cubic yards of dredged material placement capacity would also have to be replaced. Replacement of this much capacity is very problematic and expensive whether using beneficial use sites or upland placement areas.

11. Will this project introduce an increased security risk into the Bayport Channel area? The terminal will have its own security force and will coordinate with Federal, State, Regional, and local governmental agencies and customers to ensure effective communication and coordination regarding security operations at the terminal. A number of security measures will be incorporated into the facility's Security Plan, as required by Coast Guard Regulations for Port Operations.

12. What are permit special conditions? Special conditions are placed on permits to further satisfy and protect the public interest. The Corps of Engineers, Galveston District, Regulatory Branch, Compliance Section will monitor compliance with the conditions.

13. How can a permit be issued on a site that is not considered the most environmentally preferred? Under NEPA we are required to evaluate "reasonable" alternatives and to identify in the ROD the environmentally preferred alternative or alternatives. NEPA does not direct that the environmentally preferred alternative has to be the permitted alternative. The EPA's Section 404(b)(1) Guidelines establish a practicability test when considering alternatives. The guidelines define the term "practicable" as "available and capable of being done (by the applicant) after taking into consideration costs, existing technology, and logistics in light of the overall project purposes." Therefore, if the environmentally preferred alternative(s) are not available and capable of being done by the applicant, they would not be viewed as a practicable alternative.

14. Why didn't the Corps undertake an additional analysis of the economic need for and benefit of the proposed Bayport facility in light of the existing permit for the Shoal Point container terminal? While the concurrent development of the two facilities may have economic implications for the rates at which each facility is developed and their ultimate size, it is USACE policy in permit actions to defer to local government-applicants with regard to the issues of land use and the economic need for and justification of proposed facilities. Both the Shoal Point FEIS/ROD and the Bayport FEIS/ROD consider that both facilities and perhaps additional container terminals will be required in Galveston Bay to satisfy future demands.

15. Can both permits be issued? Yes. (See answer to previous question.)